

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795		Hearing Date/Agenda Number P.C. 12/10/03 Item:
<div>STAFF REPORT</div>		File Number CP03-023
		Application Type Conditional Use Permit
		Council District 7
		Planning Area South
		Assessor's Parcel Number(s) 494-01-022
PROJECT DESCRIPTION:		Completed by: Anastazia Aziz
Location: West side of Senter Road approximately 300 feet southerly of Capitol Expressway		
Gross Acreage: 1.4	Net Acreage: 1.4	Net Density: N/A
Existing Zoning: CP Commercial Pedestrian	Existing Use: Vacant	
Proposed Zoning: No Change	Proposed Use: Religious Assembly use in an existing residential structure and the construction of two additional buildings approximately 6,000 square feet and 3,260 square feet and off-site parking.	
GENERAL PLAN		Completed by: AA
Land Use/Transportation Diagram Designation Office	Project Conformance: [x] Yes [] No [] See Analysis and Recommendations	
SURROUNDING LAND USES AND ZONING		Completed by: AA
North: Commercial	CP Commercial Pedestrian	
East: Institutional	CP Commercial Pedestrian	
South: Religious Assembly	R-1-8 Residence	
West: Single-family detached residential	R-1-8 Residence	
		Completed by: AA
[] Environmental Impact Report found complete [] Negative Declaration circulated on [] Negative Declaration adopted on		[x] Exempt [] Environmental Review Incomplete
FILE HISTORY		Completed by: AA
Annexation Title: Franklin No. 24		Date: February 24, 1965
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
[x] Approval [] Approval with Conditions [] Denial [] Uphold Director's Decision		Date: _____ Approved by: _____ [x] Action [] Recommendation
DEVELOPER CRY Y OUT Christian Fellowship 2216 The Alameda Santa Clara, CA 95050	OWNER South Side Church of Christ Attn: Michael Nauman 3167 Senter Road, San Jose, CA	OWNERSouth Valley Christian Church Attn: Michael Nauman 590 Shawnee Lane San Jose, CA 95123

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: AA

Department of Public Works

See attached memorandum

Other Departments and Agencies

See attached memorandum from Fire Department

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Cryy Out Christian Fellowship, is requesting a Conditional Use Permit to allow religious assembly uses, the construction of two buildings, one approximately 6,000 square foot worship center with up to 470 seats and the second building approximately 3,260 square feet for administrative purposes and an increase in the maximum 10 foot front setback adjacent to Capitol Expressway to approximately 47 feet to reflect the existing building.

The long and narrow infill site is characterized by mature trees, gravel parking areas an existing structure circa 1960 which is located approximately 50 feet east of Capitol Expressway. The property is a through lot and has frontage on both Senter Road and Capitol Expressway. A commercial shopping plaza is located immediately to the north of the subject site, and a religious assembly use immediately to the south. Andrew Hill High School is located on the eastern side of Senter Road, across the street from the site and a single-family neighborhood lies on the west side of the property on the western side of Capitol Expressway.

Project Description

The project proponent proposes to construct two buildings in addition to the existing building on site and add parking. The 3,260 square foot administrative building is proposed to be setback 10 feet from Senter Road. The building is designed to address Senter Road and accommodates parking below the building partially below grade. The 470-seat proposed worship center is located at the approximate mid-point of the property and has no setback from the eastern property line. Eighty on-site parking stalls are provided and fifty stall off-site stall are proposed at Andrew Hill High School. The subject Conditional Use Permit will address both properties.

ENVIRONMENTAL REVIEW

The proposed project is exempt from environmental review under Section 15332 of the California Environmental Quality Act Guidelines concerning infill development projects on properties that are that are five acres of less and conform with the General Plan and Zoning Ordinance. The subject proposal is less than five acres in size, surrounded by urban uses and is consistent with both the General Plan designation of *Office* and the *Commercial Pedestrian* Zoning District (see analysis

below).

GENERAL PLAN CONFORMANCE

The proposed religious assembly use of the property is in conformance with the *Office* designation of the property in the General Plan. The Office designation permits primarily business and professional offices. Other uses such as commercial and religious assembly uses are considered appropriate the uses are low intensity and compatible with surrounding uses. Given this property is adjacent to commercial and another religious assembly use and does not border any immediate residential use or neighborhood, the subject proposal is consistent with the Office designation.

COMMUNITY OUTREACH

A community meeting was held on October 27, 2003. One person attended and generally expressed support for the project. A public hearing notice for the project was mailed to all property owners and tenants of properties located within 500 feet of the subject site. Staff has received no communication about the project.

ANALYSIS

The primary issue for the proposal is conformance with the Church Location Policy, including setbacks, and parking.

Church Location Policy

The church location policy directs that church uses should be located in an area that will not negatively impact the residential living environment and that the minimum lot size for construction of a new church facility should be one acre.

The subject is 1.4 acres in size and is compatible with both the commercial uses and religious assembly uses that are adjacent to the site to both the north and south respectively. The number of adjacent properties is minimized because of the property's through lot characteristic. Capitol Expressway, a major arterial, buffers the closest residential uses to the west from the property. The property's vehicular access point is restricted to Senter Road and all traffic will be directed to Senter Road, which is a great distance from the nearest residential use. As a result, the impact on residential uses will be minimal.

Parking

The church location policy states that the approval of churches in existing commercial areas should be evaluated primarily on the ability to provide the required on-site parking. The Zoning Ordinance requires one parking space per four seats for religious assembly uses. The proposed 470-seat worship center generates a requirement for 118 spaces.

The subject site accommodates 80 spaces on site, including parking below the proposed administrative office which is 38 spaces fewer than the Ordinance requires. The applicant also proposed the alternate use of up to 50 parking spaces at Andrew Hill High School located on the opposite side of Senter Road. The off-site parking arrangement would increase the number of available spaces to 130. The parking lot for Andrew Hill High School is located to the south of the subject site. The closest safe pedestrian crossing of Senter Road is the signal at Senter Road and Capitol Expressway which is 300 feet north of the subject site and inconvenient. Due to the lack of a safe and convenient pedestrian crossing, the applicant proposes to provide a shuttle bus service between the two sites to ensure the safe passage of the congregation.

Through the provision of up to 50 off-site parking spaces and a safe means of transport between the two properties, the proposal meets the number of required parking spaces.

Setbacks

The Church Location Policy specifies that a minimum 25-foot building setback should be required along all property lines, particularly adjacent to residential uses. Additionally, the policy specifies that all setback areas along street frontages should be at least 15 feet deep and a minimum of five feet of landscaping should be provided along interior property lines.

The subject site is a long, narrow, underutilized infill site that is zoned CP Commercial Pedestrian. The CP Commercial Pedestrian zoning designation was adopted in 2001 and specifies a 10-foot *maximum* front setback and a zero interior side yard setback. Given the odd shape of the property, its location in an urban area and the conflicting natures of the CP zoning district conflicts and the Church Location policy, staff worked with the applicant to develop appropriate setbacks for the site.

The office administration building is set back 10 feet from Senter Road in conformance with the zoning district which allows a strong street presence on the street and will enable the congregation and other members of the community to easily identify the use of the property. At the community meeting, many members of the community had difficulty finding the property. A building on Senter Road with appropriate signage will alleviate this problem.

A five foot landscape setback is not accommodated along the northern edge of the property given the limited 100-foot width of the lot. The office administration building and the 470-seat worship are set on the northern interior side property line, adjacent to commercial uses, which conforms with the zoning district. Placement of the buildings on the interior side property line allows for a minimum five foot landscape setback on the southern edge of the property. A minimum six foot landscape setback is designed along the balance of the northern property edge.

Because the property is an awkward width and shape, staff feels that reducing the setback to zero along the interior edge where the two new buildings are proposed is appropriate and allows the property to develop in a manner that accommodates sufficient landscaping given the constraints of the property.

Conclusion

Based on the above analysis, staff concludes that the proposed project will be compatible with the surrounding uses and site design, and is consistent with both the Zoning Ordinance and the Church Location Policy.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of CP Commercial Pedestrian on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. An existing structure on the project site is proposed for retention.
3. Religious assembly uses are allowed as a Conditional Use in the CP Commercial Pedestrian Zoning District.
4. Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review requirements.
5. The project consists of constructing an additional two buildings of approximately 3,260 square feet and 6,000 square feet for religious assembly uses. The project design and proposed use are compatible with adjacent commercial and religious assembly uses.
6. Eighty on-site parking spaces are provided and fifty off-site parking spaces at Andrew Hill High School.
7. The proposal is consistent with the Church Location Policy in that the use will not negatively impact a residential living environment, the lot exceeds one acre, and appropriate setbacks were developed given the narrow width of the property.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The number of off-street parking spaces provided adequately meets the parking requirements of

the individual buildings and uses as specified in Chapter 20.90 of this Title.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Cryy Out Christian Fellowship Church" dated March 24, 2002, last revised on October 30, 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
2. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Lighting.** No on-site building lighting is approved with this permit.
4. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
5. **Colors and Materials.** All colors and materials are to be those specified on the approved plan set.
6. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
7. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
8. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-16312) to the satisfaction of the Director of Public Works:
 1. **Public Works Development Review Fee:** An additional Public Works Review Fee is due. Based on established complexity criteria, the project has been rated medium complexity. Prior to the project being cleared for the hearing and approval process, a sum of \$746.50 shall be paid to the Department of Public Works (Room 308).
 1. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

2. **Grading/Geology:**

- a) A grading permit is required prior to the issuance of a Public Works Clearance.
- b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 277-4304 for more information concerning the requirements for obtaining this permit.
- c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- d) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.

3. **Undergrounding:** The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Senter Road prior to issuance of a Public Works clearance. 100 percent of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)

4. **Electrical:**

- a) Installation and/or relocation of electroliers on project frontage may be required.
- b) Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.

5. **Landscape:**

- a) Install street trees within the public right-of-way along the entire street frontage per City standards.
- b) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
- c) Contact the City Arborist at (408) 277-2756 for the designated street tree.

6. **Storm:**

- a) On-site ponding must be less than one foot.
- b) Finished floor elevations must be one foot higher than overland release elevation.

7. **Street Improvements:**

- a) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
- b) Close unused driveway cut(s).

- c) Proposed driveway width to be 26' maximum.
 - d) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
8. **Construction Agreement:** The applicant will be required to obtain a Public Works Clearance prior to the issuance of a Building Permit. The clearance will require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
9. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project, and as such is subject to the Complexity Surcharge. Based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.
9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, CP 03-023, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
10. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building Permit stage.
11. **Fire Extinguisher System.** Building(s) shall be provided with an automatic fire extinguisher system. Systems serving more than 100 heads shall be supervised by a remote alarm system to the satisfaction of the Fire Chief.
- 1. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
 - 2. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
 - 3. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
 - 4. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.

10. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public streets each working day. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
11. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
12. **Building Permits.** The applicant shall obtain building permits for conversion of the structure to office use prior to implementing the use.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

c: Building Division (2)
Engineering Services